

Attorney Docket No.: 0341-0030.42

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
 Ron WAKSMAN et al.)
)
 Serial No.: 10/817,549)
)
 Filed: April 2, 2004)
)
 For: Method And Apparatus For Treating)
 A Desired Area In The Vascular)
 System Of A Patient)
)
 Examiner: Matthew Desanto)
)
 Art Unit: 3763)

CERTIFICATE OF TRANSMISSION
 I hereby certify that this correspondence is being sent
 by facsimile to the Commissioner for Patents
 Date September 7 2005
 Fax Number (571) 273 - 4951
Shannon Wallace
 Print or Type Name of Person
 Signature Shannon Wallace

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

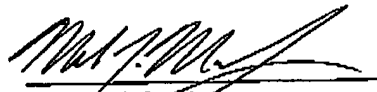
TRANSMITTAL OF TERMINAL DISCLAIMER

Applicants are submitting a terminal disclaimer herewith.

The undersigned authorizes the Patent Office to charge deposit account 50/1039
 for the required fee and any additional fee due for this terminal disclaimer.

Favorable consideration is earnestly solicited.

Respectfully submitted,


 Mark J. Murphy
 Registration No. 34,225

COOK, ALEX, McFARRON, MANZO, CUMMINGS & MEHLER, Ltd.
 200 West Adams Street, Suite 2850
 Chicago, Illinois 60606
 (312) 236-8500
 Customer No. 000026568

PTO/SB/25 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBIVATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)
0341-0030.42

In re Application of: Ron Waksman et al.

Application No.: 10/817,549

Filed: April 2, 2004

For: Method And Apparatus For Treating A Desired Area In The Vascular System of A Patient

The owner, Novoste Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 6,503,185, filed on March 26, 2001, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

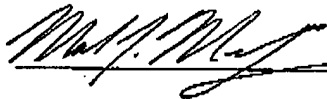
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 34,225



Signature

September 7, 2005

Date

Mark J. Murphy

Typed or printed name

312-236-8500

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/98 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.